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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,664	03/17/2004	Elena Peron	38822/GM/ps	3304

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EXAMINER

PRIOLEAU, AVERY D

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/801,664	Applicant(s) PERON ET AL.	
	Examiner Avery D. Prioleau	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6, 7 and 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/15/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Claims 1-5 and 8-12 in the reply filed on 2/06/2007 is acknowledged.

Claim Objections

2. Claims 2 and 3 are objected to because of the following informalities:
Misspelling of the word "prodruding". Examiner suggest that it should be changed to – protruding--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 and 8-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what structure is encompassed by the language "Stickpack type".

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hix et al. (US 4,139,643) in view of Mobs (US 6,352,364).

6. Regarding claims 1 and 8, Hix et al. discloses a packaging of the Stickpack type with improved opening (38), comprising: a flexible film, having at least one layer (10), which forms a hermetically sealed tubular body with mutually opposite longitudinal film flaps, a first band (12) provided longitudinally to the body for inside/outside sealing bands provided transversely to the body for inside/outside sealing (Fig. 1). Hix et al. does not disclose an extended protruding region. However, Mobs teaches a tubular type bag (1) having a sealed extension region (8) protruding from at least one of the second sealing transverse pre-weakening incisions (10) that are provided in longitudinal alignment with the sealed extension region, along at least one of the mutually opposite longitudinal flaps (Fig.1). It would have been obvious to anyone having ordinary skill in the art to have an extended region because it is well known in the art of tubular bags.

7. Regarding claim 2, the modified bag of Hix et al. discloses a package wherein the second sealing bands (14) are each provided transversely at longitudinal ends of the tubular body that form the bottom and the top of the packaging, and wherein a weakening pre-cut (34) is provided on the sealed extension region protruding from at least one of the second sealing bands that corresponds to the top of the packaging, the transverse weakening incisions being provided along the mutually opposite longitudinal flaps.

8. Regarding claim 3, the modified bag of Hix et al. discloses a package wherein the second sealing bands (14) are each provided transversely at longitudinal ends of the tubular body that form the bottom and the top of the packaging, and wherein a weakening pre-cut (34) is provided on the sealed extension region protruding from at least one of the second sealing bands that corresponds to the top of the packaging, the transverse weakening incisions being formed along one of the longitudinal flaps of the film.

9. Regarding claim 4, the modified bag of Hix et al. discloses a package wherein the transverse weakening incisions (10) are arranged in a series configuration that runs longitudinally along the flaps for a length that is at least equal to a longitudinal length of the sealed extension region.

10. Regarding claim 5, the modified bag of Hix et al. discloses a package wherein the transverse weakening incisions are smaller than the width of the first sealing band (Fig. 1).

11. Claims 8-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Center et al. (US 5,078,509) in view of Mobs (US 6,352,364).

12. Regarding claim 8, Center et al. discloses a packaging of the Stickpack type with improved opening, comprising: a flexible film, having at least one layer, which forms a hermetically sealed tubular body with mutually opposite longitudinal film flaps (60), a first sealing band for longitudinally sealing of the body; second sealing bands for sealing transversely to the body (Fig. 3). Center et al. does not disclose an extended

protruding region. However, Mobs teaches a tubular type bag (1) having a sealed extension region (8) protruding along a corresponding longitudinal edge of the tubular body from at least one of the second sealing bands; transverse preweakening incisions (11) provided in longitudinal alignment with sealed extension region along at least one of the mutually opposite longitudinal flaps; and wherein the first sealing band is of an inside/inside sealing type. It would have been obvious to anyone having ordinary skill in the art to have an extended region because it is well known in the art of tubular bags and it to have preweakening incisions because it helps with the guidance of tearing.

13. Regarding claim 9, the modified bag of Center et al. discloses a package wherein the first sealing band is folded and at least partially adheres longitudinally to an outer surface of the tubular body, and wherein an adhesive layer is further provided at the first sealing band for providing adhesion thereof at the outer surface of the body (Col. 1, lines 14-20).

14. Regarding claim 11, the modified bag of Center et al. discloses a package wherein the adhesive layer is constituted by a sealing film (Col. 1, lines 14-20).

15. Regarding claim 12, the modified bag of Center et al. discloses a package wherein the adhesive layer is distributed to at least one of the second transverse sealing bands having an adjacent heat-sealed extension region provided with a weakening pre-cut (Col. 5, line 20-45).

16. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Center et al. (US 5,078,509) in view of D.C. Leary, JR (US 6,352,364).


17. Regarding claim 10, the modified bag of Center et al. discloses a package wherein the adhesive layer is constituted by a thermolacquer (Col. 14, lines 23-33).

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avery D. Prioleau whose telephone number is 571-272-3427. The examiner can normally be reached on M-Th 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JES F. PASCUA
PRIMARY EXAMINER

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